

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 6265 of 1992****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - Whether this case involves a substantial question of law as to the interpretation of the
 - 4 constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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HARIJAN BUDHA RAJA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MRS SANGEETA N PAHWA for Petitioner(s) : 1,
MS FALGUNI PATEL, AGP for Respondent(s) : 1 - 2.
None for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**Date : 09/01/2006****ORAL JUDGMENT**

1.In the present petition, the petitioner has challenged the order dated 29.4.89 passed by the Mamlatdar, Lalpur as upheld by the Assistant Collector, Jamnagar

and Collector, Jamnagar as also the Additional Secretary (Appeals), Revenue Department of the Government of Gujarat by their orders dated 28th June 1990, 5th December 1991 and 30th June 92 respectively.

2. It is not in dispute that the petitioner has occupied the Government land admeasuring 14 acres and 21 gunthas of village Navagam out of survey Nos. 593, 594 and 595. For eviction of the unauthorized occupation, the Mamlatdar passed the above mentioned orders which the petitioner unsuccessfully challenged before the higher revenue authorities. It is the case of the petitioner that he has occupied the said land since 1969 and is cultivating the same for sustenance of his family which comprises of 13 members. It is the case of the petitioner that he has incurred substantial cost and has put in efforts to make the land cultivable. Learned advocate for the petitioner submitted that the Government policy permits regularization of unauthorized occupation of Government land under certain circumstances. She submitted that even the Assistant Collector in its order dated 28th June 1990 observed that the petitioner could have applied to the Collector, Jamnagar. She further submitted that the petitioner had made an application on 21st March 1978

to the Collector, Jamnagar for regularization of his possession. She, therefore, submitted that the Government should have considered the request of the petitioner.

3. On the other hand, learned AGP Ms. Patel submitted that the petitioner occupies the land unauthorizedly and that the application made to the Collector was in the year 1978 i.e. much prior to the initiation of eviction proceedings. She therefore, supported the orders under challenge.

4. From the material on record and submissions made on behalf of the rival parties, it can be seen that the petitioner is occupying the Government land on which the petitioner is carrying on agricultural operations. The Assistant Collector also in his order observed that the petitioner could have applied to the Collector for regularization. It appears that the petitioner did make an application to the Collector, Jamnagar on 21.3.78. No reply has been filed controverting the averment of the petitioner that such application was made, but has not been decided. The application, however, is cryptic and does not give sufficient particulars to permit the Collector to examine the request of the petitioner.

5. In the facts of the present case, therefore, it would be appropriate to permit the petitioner to apply to the Collector, Jamnagar by making an application for regularization of his holding. If the petitioner makes such an application within a period of two weeks from today, the Collector shall decide and dispose of the same expeditiously in accordance with law and as per the prevailing Government policy. Until such time the application of the petitioner is decided, no steps will be taken to dispossess the petitioner. If the decision of the Collector is adverse to the petitioner, it will be open for the petitioner to challenge the same in accordance with law.

6. In view of the above directions, no further order is required to be passed with respect to the impugned orders.

7. The petition is accordingly disposed of. Rule is made absolute to the above limited extent only with no order as to costs.

(Akil Kureshi, J.)

(vjn)